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India Taxflix

Analysis of Tax Proposals in Union Budget 19-20 | July 2019



Towards a 5 Trillion Dollar Economy



New National Education Policy

**Grameen Bharat - Ujjwala Yojana and
Saubhagya Yojan**

**Pradhan Mantri Gramin Digital
Saksharta Abhiyan**

National Research Foundation

**Pradhan Mantri Gram Sadak
Yojana (PMGSY)**

**Pradhan Mantri Awas
Yojana – Urban**

**Scheme for Promotion of Innovation,
Rural Industry and Entrepreneurship**

**National Common Mobility
Card (NCCMC)**

**Pradhan Mantri Matsya Sampada
Yojana (PMMSY)**

Rashtriya Swachhta Kendra

Model Tenancy Law

Jal Marg Vikas Project

One Nation, One Grid

FPI

Bond Market

Farmer Producer Organization

Zero Budget Farming

Rates of Taxes, TDS,
Gift, ROI, etc.,



Rate of Taxes

- **Individuals/HUF/AOP/BOI/AJP** - Tax rates remain unchanged. However, additional taxes have been prescribed for '**Super rich**' i.e. Surcharge increased for individuals with taxable income between INR 2 Crores to INR 5 Crores and more than INR 5 Crores as 25% and 37% respectively.

Effective tax for individuals disclosing taxable income of more than INR 50 Lacs upto INR 5 Crores is in the range of 30.03% to **37.78%** and beyond INR 5 Crores, it is **42.21%**.

One needs to evaluate the impact of the revised tax rates on the infrastructure sector carrying out business in joint venture which are in the form of an unincorporated AOP.

- **Corporates** – Turnover threshold for reduced corporate tax rate of 25% has been increased from INR 250 Crores to INR 400 Crores in Financial year 2017-18.



TDS, Gift..

Widening of tax base - TDS related amendments – Effective September 1, 2019

- **Individuals/HUF** carrying out business but not subject to audit would be obligated to withhold tax @ 5% for any services availed which are in the nature of **Fees for Technical Services’** or **‘Contractual payments’** exceeding **INR 50 Lacs in a Financial year**. Individuals/HUF availing presumptive tax benefit will have to consider this amendment.
- **TDS on purchase of ‘immovable property’** – TDS would also apply on the payments made with respect to club membership fee, car parking fee, electricity and water facility fees, maintenance fee, advance fee etc. as these are incidental to transfer of immovable property.

Deemed accrual of gift made to a person outside India – Effective April 1, 2019

- **Gift by resident persons to non-resident persons** would be considered as income in the hands of the non-resident and would be subject to tax in India as ‘Income from other sources’ as per Section **56(2)(x)** of the Income-tax Act, 1961. However, gifts between the prescribed relatives continue to enjoy the exemption irrespective of residential status of the recipient.



ROI, PAN, Aadhar

- Person claiming **rollover exemption benefit on capital gains** with investment in specified assets prescribed under section 54, 54B, 54D, 54EC, 54F, 54G, 54GA and 54GB would also be obligated to furnish return of income. Effective FY 2019-20.
- **Aadhaar could also be used instead of PAN** for the purposes of filing the return of income. Further, the recipient of the documents shall ensure that either Aadhaar or PAN is quoted and authenticated and failing to do so would lead to penalty. Effective September 1, 2019
- **PAN would be made inoperative on failing to link Aadhaar. Effective September 1, 2019**
- Scope of furnishing the Financial transactions would be further enhanced to enable generation of pre-filled return of income. Effective September 1, 2019
- **Mandatory furnishing of the return of income** - Person (other than company or firm) entering into the below given transactions would be obligated to furnish the return of income in India.
 - Deposit of more than INR 1 Crore in one or different bank accounts;
 - Incurred foreign travel expense amounting INR 2 Lacs or more for self or any other person;
 - Incurred electricity expense of more than INR 1 Lac



Others..

Faciliate resolution for distressed assets

- Restriction on allowability of carry forward and set-off loss would not be applicable for Companies undergoing resolution as per IBC, 2016. Benefit has been extended towards direct as well as indirect subsidiary of such Companies as well. Effective April 1, 2019
- Board to prescribe transactions that would be exempt from applicability of Section 56(2)(x) as well as Section 50CA of the Act. Effective April 1, 2019.

Tax Administration

- Online filing of application to determine applicable tax rates for cross-border payments to be enabled. Effective November 1, 2019
- Electronic filing of statement of transactions on which tax has not been deducted. Effective September 1, 2019

Strengthening Anti-abuse measures

- Section 115QA – Buyback Tax extended to listed Companies – effective July 5, 2019
- Enhanced powers for cancellation of registration of a Trust



Cashless Economy



Key Measures

- Effective April 1, 2019 - Enhancing the **acceptable mode of payment** to any “electronic mode” for the purposes of claiming the following tax deductions/mitigating the deemed income treatment upon non-compliance:
 - ✓ Weighted deduction under section 35AD
 - ✓ Payments prescribed under Section 40A
 - ✓ Purchase of assets and claim of depreciation
 - ✓ Sale of land and building by individuals
 - ✓ Extending the benefit of presumptive income based taxation for individuals/HUF receiving digital payments
 - ✓ Employee payments for the purpose of claiming deduction under 80JJAA.
 - ✓ Amendment in Section 269SS/269ST/269T – Effective September 1, 2019
- Bank/Cooperative bank to **withhold tax @ 2%** for cash withdrawals beyond INR 1 Crore during the FY – Effective September 1, 2019.
- Business establishments carrying out business with annual turnover of more than **INR 50 Crores shall mandatory provide facility to receive payments in electronic mode** and transaction cost would be absorbed by the RBI/respective bank – Effective November 1, 2019



Removing
Administrative
Inconvenience /

Rationalisation of
provisions



Removing Administrative Inconvenience

- **Ind-AS compliant accounting** in the books of resulting Company would also be eligible for tax benefits prescribed in the hands of the resulting company under demerger. Effective April 1, 2019
- Expenses on which **TDS has not been deducted** would now be **eligible for deduction** upon production of requisite documentation (return of income declaring the income received from the payer) by the payee. Further, interest for non-deduction on TDS would be levied from the due date of deduction till the return of income filed by the payee – Effective April 1, 2019
- Extension of **concessional rate of tax for short-term capital gains** in line with Long-term capital gains for transfer of units of such fund of funds – Effective April 1, 2019
- **Pass through for losses in cases** of Cat I and Cat II AIF – Effective April 1, 2019
- Business loss of the investment fund shall not be passed to unit holder



Removing Administrative Inconvenience

- Loss other than **business loss shall also be ignored** if the period of holding of units by the unit holder is less than 12 months
- Loss other than business loss **accumulated at the investment fund** level as on March 31, 2019 shall be deemed to be the loss of a unit holder who held unit on March 31, 2019 in respect of investments made. Year in which the loss incurred by the investment fund shall be reckoned from time-limit perspective
- Loss so deemed shall not be available for investment fund to set-off in the future
- **Credit of relief under section 89 of the Act** to be considered for the purposes of determining advance tax and self-assessment tax – Retrospective amendment from April 1, 2006.
- TDS on exempt life insurance policy pay-out on **net basis @ 5%** instead of existing rate of 1% on gross amount. Effective September 1, 2019



Rationalisation of provisions

- Failure to comply with the notification issued for the purposes of claiming exemption from applicability of Section 56(2)(viib) would **lead to tax on the difference between the issue price minus face value**. Effective April 1, 2019
- Mechanism to determine the **under-reported income for the purposes of levy of penalty** to be prescribed – Retrospective amendment April 1, 2016
- **Prosecution provision for non-filing of the return** to consider all the prepaid taxes including tax collected at source, self-assessment tax paid till end of the relevant assessment year – effective April 1, 2019
- **Tax recovery in pursuance of agreement with foreign countries**. Upon receipt of tax recovery certificate with respect to a person resident in India and property situated in India, the tax recovery officer shall assist the foreign government in recovery proceedings. Effective September 1, 2019.
- All claims of refund can be claimed only through furnishing return under Section 139 of the Act. – September 1, 2019
- **Time limit for sale of attached property** under rule 68B of the Second schedule to the Income-tax Act has been enhanced to 7 years – September 1, 2019



Tax Incentives



Tax Incentives

- Multiple tax incentives prescribed **for units setup under International Financial Service Centre (Financial Services – SEZ)**
- Deduction amounting **INR 1.5 lacs for interest payment** on loan borrowed for the purpose of purchasing the electric vehicle
- **Exemption of interest income to non-residents** arising from borrowings by way of issue of Rupee Denominated bonds between Sep 17, 2018 to March 31, 2019
- Deduction amounting **INR 3.5 lacs for interest payment on loan** borrowed for the purpose of purchase of **residential house property** subject to compliance of prescribed conditions viz., defined carpet area, stamp value of the property shall not exceed INR 45 Lacs, assessee does not own any other residential property. Conditions for affordable housing tax holiday aligned with GST regulations.
- Withdrawal from NPS upto 60% would be exempt from tax.



Start up

Startups – Effective April 1, 2019

- Conditions for carry forward and set-off of losses under **section 79 rationalised** for prescribed startups i.e. Change in voting power or shareholding pursuant to death of a shareholder or gift of shares to any relatives

Claim under 54GB – Conditions rationalised

- **Sunset date for transfer of residential property** for investment in start-ups extended to March 31, 2021
- Condition on **minimum shareholding of 50% of share capital** or voting rights relaxed to 25%
- Computer or computer software could be sold after three years of purchase.

Extension of exemption coverage from the **tax implications of Section 56(2)(viib) extended to Category II AIF**. Effective April 1, 2019.



Transfer Pricing



Transfer Pricing

Section 92CE - Secondary Adjustment

- Applicable only to APAs concluded after 1 April 2017.
 - No refund of taxes already paid before 31 March 2017.
 - Repatriation of funds by any of the Associated Enterprise.
 - From 1 September 2019, the Assessee would have option to **pay additional income tax at the rate of 18% plus surcharge**. Such payment of tax would be considered as final payment, however no further credit can be claimed for taxes paid.
- **Section 286 – Amended definition of ‘Accounting Year’** - Accounting Year followed by the Non- Resident Parent Entity / Alternate Reporting Entity – Retrospective from 1 April 2017.
 - **Section 92D** - Maintenance, keeping and furnishing of information and document by certain persons, substituted.



Channelising NBFC



NBFC

Pursuant to fallout of some of the large NBFCs of the country, Government has prescribed some radical changes in the regulatory framework of NBFC

Policy changes

- **Amendment in RBI Act, 1934** – RBI to notify different amounts of Net owned funds for different categories of NBFC. The minimum net owned fund as per the amended Act, 1934 is INR 25 Lacs but not exceeding INR 100 Crores (earlier INR 2 Crores)
- In lieu of public interest or prevent depositors/creditors interest or for proper management of affairs the NBFC, **RBI has powers to oust a director from the Company and can also supercede the board of directors** and appoint an administrator to manage the affairs of the NBFC
- **Significant increase in penalties for the tainted stakeholders** responsible for fall-out of the NBFC – Auditors, directors or such other person responsible etc

Tax Boost

- Tax on interest income on **NPA would be charged on realization basis** – Effective April 1, 2019
- **Disallowance of interest under section 43B** upon default of payment of interest on the loan borrowed from the NBFC – effective April 1, 2019



Indirect Tax



Key Proposals

- **Legacy Dispute Resolution Scheme** for quick closure of pending litigations in Central Excise and Service tax from pre-GST regime.
- Increase in Special Additional **Excise Duty and Road and Infrastructure Cess** each by Rs. 1 per litre on petrol and diesel.
- Basic Customs Duty increased on cashew kernels, PVC, tiles, auto parts, marble slabs, optical fibre cable, CCTV camera etc.
- Exemptions from Custom Duty on certain electronic items now manufactured in India withdrawn.
- Custom duty on gold and other precious metals increased



Thank You

VCMV & ASSOCIATES LLP
CHARTERED ACCOUNTANTS

VCMV | Team of CA, CS & CMA

Suite 303, Kaveri Complex, #104, Nugambakkam High Road, Nungambakkam, Chennai – 600 034